UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE

KINGS MATERIAL HANDLING CORP.

and Case No. 29-CA-083190

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 1205

David Stolzberg, Esq., of Brooklyn, New York,
for the Acting General Counsel.
Stanley Israel, Esq., of Bronx, New York,
for the Respondent-Employer.

DECISION

Statement of the Case

Kenneth W. Chu, Administrative Law Judge. This case was tried on January 14, 2013[1] in Brooklyn, New York pursuant to a Complaint and Notice of Hearing issued by the Regional Director for Region 29 of the National Labor Relations Board ("NLRB") on October 26, 2012. The complaint alleges that Kings Material Handling Corp. (the Respondent) violated Section 8(a)(5) and (1) of the National Labor Relations Act ("NLRA" or "Act") by failing to provide information to the International Brotherhood of Teamsters, Local 1205 (the Charging Party or Union), which was the certified bargaining representative of an appropriate unit of its employees. Respondent filed a timely answer to the complaint denying the material allegations in the complaint.

After the close of the hearing, the briefs were timely filed by the Acting General Counsel and Respondent, which I have carefully considered. On the entire record, including my observation of the demeanor of the witness, I make the following

Findings of Fact

I. Jurisdiction and Labor Organization Status

The Respondent, a New York corporation with its principal office in Brooklyn, New York, is engaged in the retail business of supplying building materials with facilities in Brooklyn, Staten Island and Long Island, New York. During a representative 1-year period, the Respondent provided services valued in excess of $50,000 to customers throughout the State of New York. Accordingly, I find, as the Respondent admits, that Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

[1] All dates are in 2013 unless otherwise indicated.

The Union is a labor organization within the meaning of Section 2(5) of the Act.

II. The Alleged Unfair Labor Practices

A. The Facts

The Union and Respondent have engaged in a collective bargaining relationship for over thirty years. The Union is the exclusive collective bargaining representative of the Respondent's employees in the following appropriate bargaining unit:

> All chauffeurs, mechanics, laborers, lift operators, counter and office clerical in the employ of the Respondent, excluding supervisors.

The most recent bargaining agreement expired on November 30, 2010 (GC Exh. 3).[2] Timothy Lynch ("Lynch"), Union President, testified that since the expiration date, the Union and Respondent have been operating under the terms of the expired agreement and that negotiation for a new agreement had started in early 2011.[3] He testified that there have been five or six bargaining sessions since that time (Tr. 16-19). Lynch further testified that the Respondent presented a final offer in late 2011. The Respondent was informed by Lynch in a letter dated December 12, 2011 that the Union had rejected the final offer. In that letter, Lynch also requested information on such items as sales commissions, bonuses, health benefits, merit pay increases, profit sharing plans, workers' compensation claims, and different types of power operated equipment (GC Exh. 4). Although some information from the December 2011 letter was provided, the outstanding information requested was as follows:

> a. The formula used in paying all sales commissions to bargaining unit employees.
> b. The amounts of money paid to each commissioned unit employee in each month of each of the last five calendar years.
> c. All bonuses paid to bargaining unit employees in each of the last five years.
> d. Information regarding merit pay, including but not limited to, what merit increases were given to bargaining unit employees, and what unit employees were denied requested increases.
> e. Any and all information regarding any employer profit sharing plan or policy.

According to Lynch, the information was necessary in order to bargain effectively for a new agreement. Lynch testified that having information on sales commissions, bonuses and merit pay increases would assist the Union in knowing exactly how much an employee is receiving in wages since the Respondent has refused to bargain for any minimum wage increase. Lynch stated that many of the unit employees' wages are dependent, in part, on commissions earned from the products that they sold. Lynch stated that sales on building products are seasonal in nature and the amount of sales varies from one facility to another. He said that without knowing the formula as to how the Respondent calculate its sales commissions and the amount paid to the unit employees, it would be difficult for the Union to bargain not knowing if one employee is receiving a higher commission than another; or which of the Respondent's facilities have better sales commissions; or whether there was equity in sales commissions among the unit employees. With regard to bonuses and merit increases, Lynch

[2] Testimony is noted as "Tr." (Transcript). The exhibits for the Acting General Counsel and Respondent are identified respectively as "GC Exh." and "R Exh."

[3] Timothy Lynch was the only witness to testify at trial.

testified that since the Respondent has refused to offer any wage increase, the Union needed to know what amount of bonuses are received and who has received bonuses. Lynch stated that, similarly, the Union needed to know how merit increases are given by the Respondent and who has been given and denied merit increases in the past (Tr. 20-24). Finally, with regard to the Respondent's profit sharing plan or policy, Lynch testified that since wages have been inadequate, the Union believes it appropriate to know if a plan or policy existed in order to negotiate for a share in the Respondent's profits (Tr. 28).

The Respondent responded to the Union's information request in a letter dated December 27, 2011(GC Exh. 5). The Respondent provided a chart of unit employees who had received sales commissions as part of their compensation on an annual basis from 2007 through 2010. Lynch repined that this was only a partial response because the Union had wanted a monthly breakdown of the commissions for the last five years. He stated that the building industry is slow during different times of the year and some of the Respondent's facilities do better business than others. He stated that information provided on a monthly basis would allow the Union to determine whether there was parity in the commissions among the unit employees (Tr. 31, 32).

With regard to bonuses, the Respondent tabulated the bonuses paid in 2007, 2008, 2009, 2010, and one in 2011, but refused to release the information, stating:

> This information will be provided to you, provided we receive written authorization from the affected bargaining unit employee authorizing the release of his information, or we receive a Confidentiality Agreement (acceptable to us) on your part not to disclose any such information to any person or persons other than the individual affected employee.

With regard to merit pay increases, the Respondent indicated it was prepare to furnish the information for 2010 and 2011 if the Union provides the same written authorization from unit employees or a confidentiality agreement. Regarding the profit sharing plan or policy, the Respondent states:

> We will not provide any of the requested Profit Sharing documents or information (to the extent the same actually exist).

In response, Lynch reiterated to the Respondent in a letter dated January 10, 2012 that the Union is requesting 1) the formula used to pay sales commissions and the amounts paid to each commissioned unit employee on a monthly basis for the past five years; 2) all bonuses paid and merit increases given; and 3) information on the Respondent's profit sharing policy or plan. Lynch stated that "If none actually exist, please let us know that" (GC Exh. 6). With regard to the releasing of information on bonuses and merit pay increases conditioned upon a confidentiality agreement and/or written authorizations from the affected employees, Lynch stated in his letter that:

> There is no legal requirement to provide you with written authorizations, nor would we agree to any Confidentiality Agreement.

Lynch testified that he did not believe there was a legal basis for the Respondent to demand a confidentiality agreement or a written authorization from the affected unit employees before the information could be released (Tr. 43, 44). In a letter dated January 12, 2012, the Respondent informed the Union that its position had not changed with respect to the documents

requested (GC Exh. 7). Lynch stated that he verbally requested the same information from the Respondent during a bargaining session in spring 2012, which the Respondent again rejected.[4] Lynch affirmed that since that time, the information requested remains outstanding (Tr. 39 40). The Respondent made a revised final offer on October 8, 2012. Among other things, the final offer would allow the Respondent to retain the right to grant discretionary individual merit increases (R Exh. 2). Lynch testified that the Union rejected this revised final offer and that the parties have not met to bargain since that time (Tr. 19).

B. Discussion and Analysis

1. Amendments to the Complaint

During the trial, the Respondent agreed to provide some of the information in the Union's December 12, 2011 request and a settlement between the parties was entered. However, the settlement did not resolve the outstanding information as noted above. At trial, the Acting General Counsel also moved to amend the complaint. The first amendment was to include a new paragraph 9(e)(i) to read:

> By letter dated December 27, 2012, Respondent provided a partial list of equipment at the facilities including hilos and payloaders used for loading and unloading by yardmen (GC Exh. 2).

Respondent did not object to this amendment since this information was already included as part of the settlement agreement and the Acting General Counsel confirmed that this information requested was resolved through the agreement (Tr. 24, 25). The second amendment to the complaint by the Acting General Counsel was to add language to paragraph 9(g):

> Any and all information regarding any employer profit sharing plan or policy for *bargaining unit employees* (emphasis added) (GC Exh. 2).[5]

The third amendment to the complaint, identified as 11(a), was verbally made by the Acting General Counsel during the trial:

> Since on or about December 27, 2011, Respondent delayed communications with the Union of the fact that information requested by it above in paragraph 9(g) does not exist.

The Acting General Counsel stated that he had informed the Respondent in a pre-trial conference call on January 10 that he intended to amend the complaint to include the added language "bargaining unit employees" and a new allegation that the Respondent had delayed communications to Union regarding information on the profit sharing plan (Tr. 8, 13-15).

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[4] The Respondent contends that the charge was untimely filed since the information requested was made by the Union on December 12, 2011 and the filing of the charge was on June 14, 2012. Section 10(b) of the Act, in pertinent language, states, "That no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made…" However, the record shows that the Union had renewed its request for information on January 10, 2012 and Lynch credibly testified that he verbally requested the same information in spring 2012. Thus, I find that the charge was timely filed.

[5] Paragraph 9(g) in the complaint initially stated: "Any and all information regarding any employer profit sharing plan or policy" (GC Exh. 1).

The Respondent objected to this amendment because the Union had never previously clarify what exactly it wanted and the Respondent cannot guess what was on the Union's mind when this information request was made. At the trial, I allowed evidence regarding the amendments, but reserved my ruling on the Acting General Counsel's motion to amend the complaint (Tr. 8, 26, 27). For the reasons set forth below, I find that the Acting General Counsel's amendments to the complaint are appropriately related to the existing allegations and are without undue prejudice to the Respondent.

Generally, amendments are permitted when they are sufficiently related to existing allegations and no undue prejudice is occasioned on the Respondent. I find that amending paragraph 9(g) to add "bargaining unit employees" relates to the existing allegation in the complaint that the Respondent had failed to provide such information. By adding language "bargaining unit employees," the complaint had not been altered to prejudice the Respondent since it still needed explain its refusal to provide such information. With regard to amending the complaint that the Respondent had delayed communications to the Union since December 27, 2011 that such profit sharing plan or policy did not exist with respect to bargaining unit employees, I find that this relates to the overall complaint alleging the failure of the Respondent to furnish information to the Union. I also note that there was no undue delay since the Acting General Counsel was not informed of the non-existent of such information until the pre-trial conference on January 10 and that Respondent was not prejudiced since this matter was fully litigated at trial. As such, I grant the Acting General Counsel's motion to amend. *Payless Drug Stores*, 313 NLRB 1220, 1221 (1994); *Stagehands Referral Service*, 347 NLRB 1167 (2006).

2. The Information Request

It is a violation of 8(a)(5) and (1) of the Act when an employer fails or refuses to provide information requested for contract negotiations. *NLRB v. Truitt Mfg., Co.,* 351 U.S. 149 (1956). It is well settled that an employer is obligated to furnish information requested by its employees' collective-bargaining agent that is relevant and necessary to the Union's bargaining responsibilities and contract negotiations. *Detroit Edison Co. v. NLRB*, 440 U.S. 301, 303 (1979). As to information regarding the unit employees, there is a presumption that the information is relevant to the Union's bargaining obligation. Relevancy should be broadly construed and absent any countervailing interest, any requested information that has a bearing on the bargaining process must be disclosed. The burden to show relevancy is not exceptionally heavy, "requiring only that a showing be made of a probability that the desired information is relevant, and that it would be of use to the union in carrying out its statutory duties and responsibilities." *NLRB v. Acme Industrial Co*., 385 U.S. 432, 437 (1967). The standard for relevancy to apply is a liberal discovery-type standard requiring only that the information be directly related to the union's function as a bargaining representative and that it appear "reasonably necessary" for the performance of that function. *Acme Industrial Co.,* supra.

I find that Respondent violated Section 8(a)(5) and (1) of the Act when it refused to provide the information requested. The information becomes significant for the Union to know in light of the fact that the Respondent had initially refused to offer any wage increase. I find the Union's information request on bonuses, sales commissions, merit pay increases and any profit sharing policy and plan for employees in the bargaining unit as presumptively relevant since the information related directly to the Union's bargaining efforts on wage increases. *U.S. Information Services*, 341 NLRB No. 129 (2004) (the employer violated Section 8(a)(5) of the Act when it refused to furnish information on all bonuses); *Essex Valley Visiting Nurses Association*, 353 NLRB No. 109 (2009) (the employer violated Section 8(a)(5) when it delayed in furnishing information on earnings and new-hired bonuses); *DynCorp/Dynair Servs*., 322 NLRB

602 (1996) (it is well-settled that rates and range of pay given to employees are presumptively relevant); *Salem Hospital Corporation*, 358 NLRB No. 95 (2012).

Lynch credibly testified about the need for such information in order for the Union to bargain effectively for the employees it represents. For example, if a company has a habit of giving amounts of hidden money to some bargaining unit employees, this is information that a union would want to know about in order to determine its wage demands for the entire unit and to formulate proposals as to how to distribute any available money. Indeed, the expired bargaining agreement calls for the Respondent to grant merit basis pay increases and may, at its option, reduce the next scheduled across the board hourly wages to some or all unit employees who had received such merit increases. In addition, the Respondent's final revised offer allows it to retain the right to grant discretionary merit increases to the unit employees. As such, the information is relevant for the Union to negotiate from a knowledgeable position over the frequency and types of bonuses and the commissions and merit pay increases given to the unit employees that directly relates to supplementing their wages. The Respondent offered no credible evidence to rebut Lynch's testimony or to show lack of relevance.

With regard to the information request on sales commissions, it is not disputed that sales commissions are presumptively relevant and this point had been conceded by the Respondent. The Union sought information on the formula by which commissions are calculated and the amount paid to each commissioned unit employees on a monthly basis for the last five years. However, the Respondent provided the information on an annual basis for the last five years. I find that the Union provided a legitimate rationale for requesting the information on a monthly basis. Lynch credibly testified that business generated in the building industry is seasonal in nature and would vary from month-to-month throughout the year. Consequently, providing the information on sales commissions earned by the unit employees on a monthly basis would assist the Union to negotiate an agreement as to where and when work is assigned in order that some parity in sales commissions could be achieved among the unit employees.

Thus, I find without merit the Respondent's contentions that the requested information did not relate to any issue, demand or proposal by the Union during the negotiations for a new collective agreement and that the Union's "…entire information request met the Board's standards for relevance and the information should have been provided." *Salem Hospital Corporation*, supra.

3. The Confidential Nature of the Information

In a similar vein, the Respondent also implicitly conceded that information on bonuses and merit pay increases was presumptively relevant.[6] The Respondent communicated to the Union that it had either already compiled this information or was willing to do so. Its only condition before releasing the information was that a confidential agreement or written authorizations from affected unit employees be provided by the Union. It is well settled that substantial claims of confidentiality may justify refusals to furnish otherwise relevant information.

The Respondent contends that it never stated or insisted that it would only accept a confidential agreement or written authorizations before releasing the information. It asserts it never refused to bargain over other alternatives and that it was the Union who had refused to

[6] Although presumptively relevant, the Respondent offered no evidence and left unexplained for limiting the information regarding the merit pay increases to two instead of five years (GS Exh. 5).

bargain by not proposing any substitutes or alternatives for release of the information.[7] As the Board explained in *National Steel Corp*., 335 NLRB 747, 748 (2001):

> With respect the confidentiality claim, it is well established than an employer may not avoid its obligation to provide a union with requested information that is relevant to bargaining simply by asserting a confidential interest in the information. Rather, the employer has the burden to seek an accommodation that will meet the needs of both parties.

Relating to the Respondent's refusal to provide the outstanding information because of privacy and confidential concerns, the Supreme Court articulated a balancing test for determining an employer's duty under the Act to furnish information. The party claiming confidentiality has the burden of proving that such interests are so significant as to outweigh the union's need for the information. *Detroit Edison Co.*, supra. Here, the Respondent never offered any evidence as to what portions of the information requested were considered confidential or what were its interests in keeping the information confidential. Here, I find no evidence to show that the Respondent offered any reasons to the Union as to why it had any confidentiality interests. By merely asserting that something is confidential, without more, the Respondent has not met its burden under *Detroit Edison Co*, supra.

It is also well settled that even assuming that the Respondent had met its burden of a legitimate privacy or confidential concern over releasing the information, it was obligated to notify the Union of its concern and to bargain for an accommodation that will satisfy the Union's need for the information and the employer's need to keep the information confidential. In its brief, the Respondent contends that it was willing to listen to any substitutes or alternatives from the Union on safeguarding the information. However, this was contrary to its position at the bargain table. The assertion by the Respondent during all the bargaining sessions was always that "This information will be provided to you, provided we receive written authorization from the affected bargaining unit employee authorizing the release of his information, or we receive a Confidentiality Agreement (acceptable to us) on your part not to disclose any such information to any person or persons other than the individual affected." I find no credible evidence that the Respondent was willing to entertain alternatives or had offered to bargain over an accommodation to release the information. Indeed, it would difficult for the Union to bargain over an accommodation since it was never informed by the Respondent as to what were the significant confidential interests that outweighed the Union's need for the information. In applying the balancing test articulated in *Detroit Edison Co*., the Respondent has not met its burden of proving that such interests are so significant as to outweigh the Union's need for the information, as well as not meeting its burden to seek an accommodation. *GTE California, Inc*., 324 NLRB 424, 427 (1997).

[7] It is significant that the Union's request for information on the merit pay policy was never fully addressed by the Respondent. Under the request for the Respondent's merit pay policy, the Union sought information on any evaluations used by the employer in the course of all merit increases in the last five years; a copy of any merit pay plan; a list of factors which were used in evaluating whether an employee was entitled to a merit pay increase and how much; and wage surveys conducted during the last five years (GC Exh. 4). This information is not inherently confidential and could have been separately provided by the Respondent from the allegedly confidential information. This was not done by the Respondent and by itself, a violation of Section 8 (a)(5) and (1) of the Act.

4. The Delay in Providing the Information

The Acting General Counsel contends that the Respondent had delayed in providing information requested on the Respondent's profit sharing plan or policy. In response to this request, the record shows that the Respondent informed the Union on December 27, 2011 that, "We will not provide any of the requested Profit Sharing documents or information (to the extent the same actually exist)." Lynch stated that he never previously made a proposal to the Respondent relating to profit sharing because he was waiting for an answer if such a policy existed so that the Union could respond accordingly. He stated that the Respondent's answer was vague with no clear answer and had requested in his January 10, 2012 letter that Respondent clarify its response, but to no avail. Lynch testified that the first time he was informed that the Respondent did not have a profit sharing plan or policy with respect to the unit employees was one year later at the January 10 pre-trial conference call (Tr. 28, 29).

I find that the Respondent was being purposely vague or evasive in providing this response to the Union. The Respondent knew it did not have a profit sharing plan or policy for the unit employees when the information was requested by the Union. No credible explanation has been advanced as to why the Respondent delayed until January 10 to inform the Union that no such plan or policy exists with respect to unit employees. The Respondent could have simply stated to the Union on December 27, 2011 that it either had or did not have a profit sharing plan for the unit employees. The Respondent could have also responded that such information was not presumptively relevant with respect to the non-unit employees. The reasonableness of a delay depends on the complexity and extent of the information sought its availability, and the difficulty in retrieving the information. *West Penn Power Co.*, 339 NLRB 585, 587 (2003). With respect to the information which Respondent ultimately provided to the Union, the record does not establish that it was unavailable or so extensive and complex that such delay was justified. Likewise, the record does not establish that there was any difficulty in retrieving the information to justify the delay in furnishing it. Accordingly, I conclude that the delay in furnishing the information was unreasonable and constituted a breach of the Respondent's duty to bargain in good faith with the Union. Accordingly, the delay violated Section 8(a)(5) and (1) of the Act, as alleged.

Conclusions of Law

1. By failing and refusing to fully provide the relevant information to the Union in its December 12, 2011 request, Respondent has committed an unfair labor practice in violation of Section 8(a)(5) and (1) of the Act.

2. By delaying and refusing to promptly provide the relevant information to the Union in its December 12, 2011 request, Respondent has committed an unfair labor practice in violation of Section 8(a)(5) and (1) of the Act.

3. The above violation is an unfair labor practice within the meaning of the Act.

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusion of law and on the entire record, I issue the following recommend[8]

Order

The Respondent, Kings Material Handling Corp, its officers, agents, successor, and assigns, shall

1. Cease and Desist from

(a) Refusing to bargain collectively with the Union, International Brotherhood of Teamsters, Local 1205, by failing and refusing to provide information requested to the Union that is necessary and relevant to its role as the exclusive representative of the employees in the following unit:

> All chauffeurs, mechanics, laborers, lift operators, counter and office clerical in the employ of the Respondent, excluding supervisors.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

(c) Delaying to fully provide to the Union, International Brotherhood of Teamsters, Local 1205, information requested that is necessary and relevant to its role as the exclusive representative of the employees in the above unit.

2. Take the following affirmative action necessary to effectuate the purposes and policies of the Act.

(a) Furnish the Union with the full information it requested on December 12, 2011.

(b) Within Fourteen (14) days, post at the Respondent's Brooklyn, Staten Island, and Long Island, New York facilities, a copy of the attached notice marked "Appendix."[9] Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facilities involved in these proceedings, or sold the business or the facilities involved herein, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since December 12, 2011.

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[8] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[9] If this Order is enforced by a judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C., March 14, 2013.

Kenneth W. Chu
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefits and protection
Choose not to engage in any of these protected activities

WE WILL NOT refuse to bargain collectively with the Union (International Brotherhood of Teamsters, Local 1205) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective bargaining representative of the employees in the following unit:

All chauffeurs, mechanics, laborers, lift operators, counter and office clerical in the employ of the Respondent, excluding supervisors.

WE WILL NOT delay in promptly furnishing the information requested by the Union that is relevant and necessary to the Union's performance of its duties as the collective-bargaining representative of the employees in the above unit.

WE WILL NOT in any like or related manner interfere with, restrain or coerce our employees in the rights guaranteed to them by Section 7 of the National Labor Relations Act.

WE WILL furnish the Union with the information it requested on December 12, 2011, and to specifically include the following: a) The formula used in paying all sales commissions to bargaining unit employees; b).The amounts of money paid to each commissioned unit employee in each month of each of the last five calendar years; c) All bonuses paid to bargaining unit employees in each of the last five years; d) Information regarding merit pay, including but not limited to, what merit increases were given to bargaining unit employees, and what unit employees were denied requested increases; and e) Any and all information regarding any employer profit sharing plan or policy.

KINGS MATERIAL HANDLING CORP.

_____
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

Two MetroTech Center, 100 Myrtle Avenue, 5th Floor
Brooklyn, New York 11201-4201
Hours: 9 a.m. to 5:30 p.m.
718-330-7713.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 718-330-2862.